

JOURNAL OF THE HOUSE

EIGHTY-EIGHTH SESSION

THIRTY-EIGHTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Monday, March 25, 2013

The House convened at 10:00 a.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Pastor Karl Kroger, followed by the Pledge of Allegiance led by House page Leah Gosch.

Roll Call: All members present except Reps. Killer, Otten, Schrempp, and Wismer who were excused.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the thirty-seventh day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Brian G. Gosch, Chair

Which motion prevailed.

HONORED GUESTS

Speaker Gosch introduced Kristina Maddocks of Hecla, 2013 Miss Rodeo South Dakota.

COMMUNICATIONS AND PETITIONS

March 11, 2013

Mr. Speaker and Members of the House of Representatives:

I have the honor to inform you that on March 11, 2013, I approved House Bill 1050, and the same has been deposited in the office of the Secretary of State.

Respectfully submitted,
Dennis Daugaard
Governor

March 12, 2013

Mr. Speaker and Members of the House of Representatives:

I have the honor to inform you that on March 12, 2013, I approved House Bills 1048, 1049, 1056, 1058, 1059, 1062, 1083, 1093, 1102, 1103, 1110, 1112, 1115, 1116, 1120, 1150, 1162, 1170, 1174, 1187, 1191, 1209, and 1217, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,
Dennis Daugaard
Governor

March 14, 2013

Mr. Speaker and Members of the House of Representatives:

I have the honor to inform you that on March 14, 2013, I approved House Bills 1018, 1061, 1075, 1124, 1126, 1144, 1149, 1152, 1163, 1167, 1208, and 1246, and the same have been deposited in the office of the Secretary of State.

Respectfully submitted,
Dennis Daugaard
Governor

1 March 20, 2013

2 Mr. Speaker and Members of the House of Representatives:

3 I have the honor to inform you that on March 20, 2013, I approved House Bills 1030, 1033,
4 1045, 1123, and 1198, and the same have been deposited in the office of the Secretary of State.

5 Respectfully submitted,
6 Dennis Daugaard
7 Governor

8 March 21, 2013

9 Mr. Speaker and Members of the House of Representatives:

10 I have the honor to inform you that on March 21, 2013, I approved House Bills 1060, 1068,
11 1085, 1096, 1098, 1122, 1130, 1164, 1165, 1168, 1171, 1184, 1212, 1220, 1233, and 1234, and
12 the same have been deposited in the office of the Secretary of State.

13 Respectfully submitted,
14 Dennis Daugaard
15 Governor

16 March 20, 2013

17 The Honorable Brian Gosch
18 Speaker of the House of Representatives
19 500 East Capitol Avenue
20 Pierre, SD 57501-5070

21 Dear Mr. Speaker and Members of the House of Representatives:

22 I respectfully return House Bill 1137 and pursuant to Article IV, Section 4 of the South Dakota
23 Constitution, I exercise a LINE ITEM VETO on the same.

24 House Bill 1137 is entitled, "An Act to impact education in South Dakota, to make an
25 appropriation therefor, and to declare an emergency."

26 I am exercising a line item veto to remove two sentences. The first sentence appears in Section
27 1, which deals with funding for the technical institutes: "The Secretary of Education shall
28 distribute this funding based on actual full time student enrollment in fiscal year 2012."

29 The second sentence is in Section 2, which deals with funding for K-12 schools: "The Secretary
30 of Education shall distribute this funding based on actual fall student enrollment in fiscal year
31 2012."

I have no objection to the Legislature's intention to distribute these funds to the technical institutes and the K-12 schools. However, I believe these two sentences are in error because both distribute funds according to FY2012 actual student F.T.E., which equates to data from the 2011-12 school year.

For the technical institutes, the language in the bill is inconsistent with the technical institute funding formula, which is established in administrative rule 24:10:42:28 and which would use more recent data. For K-12 schools, more recent data is also available - the actual student F.T.E. for FY2013, or the 2012-13 school year. These approaches to allocating funds would more closely align distribution of these funds with current enrollments.

The Legislature can use a letter of intent to clarify its intention to distribute the technical institute funding according to the funding formula, and the K-12 funding according to the FY2013 actual student F.T.E. It is my intention to instruct that these funds be distributed according to the letter of intent.

I respectfully request that you concur with my LINE ITEM VETO of House Bill 1137.

Sincerely,
Dennis Daugaard
Governor

March 20, 2013

The Honorable Brian Gosch
Speaker of the House of Representatives
500 East Capitol Avenue
Pierre, SD 57501-5070

Dear Mr. Speaker and Members of the House of Representatives:

I respectfully return House Bill 1185 and pursuant to Article IV, Section 4 of the South Dakota Constitution, I exercise a LINE ITEM VETO on the same.

House Bill 1185 is entitled, "An Act to appropriate money for the ordinary expenses of the legislative, judicial, and executive departments of the state, the expenses of state institutions, interest on the public debt, and for common schools."

I am exercising a line item veto within Section 12, subsection (8A) to remove the following sentence from Page 17 of the enrolled bill: "The moneys appropriated by this subsection shall be distributed on a one-time basis to the technical institutes based on FY2012 actual student F.T.E."

I have no objection to the Legislature's intention to distribute these funds to the technical institutes. However, I believe this sentence is in error because it relies on old enrollment data from FY2012, which equates to data from the 2011-12 school year. That is inconsistent with

1 the technical institute funding formula, which is established in administrative rule 24:10:42:28
2 and which would use more recent data.

3 The Legislature can clarify its intention to distribute these funds according to the technical
4 institute funding formula through a letter of intent, and it is my intention to instruct that these
5 funds be distributed according to the letter of intent.

6 I respectfully request that you concur with my LINE ITEM VETO of House Bill 1185.

7 Sincerely,
8 Dennis Daugaard
9 Governor

10 Rep. Lust moved that the House do now recess until 10:50 a.m., which motion prevailed
11 and at 10:33 a.m., the House recessed.

12 **RECESS**

13 The House reconvened at 10:50 a.m., the Speaker presiding.

14 **CONSIDERATION OF EXECUTIVE VETOES AND RECOMMENDATIONS**

15 The House proceeded to the reconsideration of HB 1137 pursuant to the line item veto of
16 the Governor and the veto message found on page 843 of the House Journal as provided in
17 Article IV, Section 4, of the Constitution of the State of South Dakota.

18 The question being "Shall HB 1137 pass, the line item veto of the Governor
19 notwithstanding?"

20 And the roll being called:

21 Yeas 1, Nays 65, Excused 4, Absent 0

22 Yeas:
23 Greenfield

1 Nays:

2 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
3 Ecklund; Erickson; Feickert; Feinstein; Gibson; Haggar (Don); Haggar (Jenna); Hajek; Hansen;
4 Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns;
5 Kaiser; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller; Munsterman;
6 Nelson; Novstrup (David); Olson (Betty); Parsley; Peterson; Qualm; Rasmussen; Ring;
7 Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Sly; Soli; Solum; Stalzer; Steele;
8 Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Speaker Gosch

9 Excused:

10 Killer; Otten (Herman); Schrempp; Wismer

11 So the bill not having received an affirmative vote of a two-thirds majority of the members-
12 elect, the Speaker declared the Governor's veto sustained.

13 The House proceeded to the reconsideration of HB 1185 pursuant to the line item veto of
14 the Governor and the veto message found on page 844 of the House Journal as provided in
15 Article IV, Section 4, of the Constitution of the State of South Dakota.

16 The question being "Shall HB 1185 pass, the line item veto of the Governor
17 notwithstanding?"

18 And the roll being called:

19 Yeas 1, Nays 65, Excused 4, Absent 0

20 Yeas:

21 Greenfield

22 Nays:

23 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
24 Ecklund; Erickson; Feickert; Feinstein; Gibson; Haggar (Don); Haggar (Jenna); Hajek; Hansen;
25 Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns;
26 Kaiser; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller; Munsterman;
27 Nelson; Novstrup (David); Olson (Betty); Parsley; Peterson; Qualm; Rasmussen; Ring;
28 Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Sly; Soli; Solum; Stalzer; Steele;
29 Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink; Speaker Gosch

30 Excused:

31 Killer; Otten (Herman); Schrempp; Wismer

32 So the bill not having received an affirmative vote of a two-thirds majority of the members-
33 elect, the Speaker declared the Governor's veto sustained.

1

MESSAGES FROM THE SENATE

2 MR. SPEAKER:

3 I have the honor to inform your honorable body that the Senate has sustained the veto of
4 the Governor on SB 115.

5 Also MR. SPEAKER:

6 I have the honor to inform your honorable body that the Senate has adopted the report of
7 the Joint-Select Committee for the purpose of waiting upon his Excellency, the Governor, that
8 the Legislature has completed its labors, is ready to adjourn sine die, and to ascertain if he has
9 any further communications to make to the Legislature.

10 Also MR. SPEAKER:

11 I have the honor to inform your honorable body that the Senate has adopted the report of
12 the Joint-Select Committee relative to fixing the time of adjournment sine die for the Eighty-
13 eighth Legislative Session.

14 Respectfully,
15 Jeannette Schipper, Secretary

16 **CONSIDERATION OF REPORTS OF JOINT-SELECT COMMITTEES**

17 MR. SPEAKER

18 Your Joint-Select Committee appointed to wait upon his Excellency, the Governor, to
19 inform him that the Legislature has completed its labors and is ready to adjourn sine die and to
20 ascertain if he has any further communications to make to the Legislature, respectfully reports
21 that it has performed the duty assigned to it and has been informed by his Excellency, the
22 Governor, that he will not appear for the closing of the Eighty-eighth Legislative Session.

23 Respectfully submitted,
24 Brian Gosch
25 David Lust
26 Bernie Hunhoff
27 House Committee

Respectfully submitted,
Russell Olson
Tim Rave
Jason Frerichs
Senate Committee

Rep. Lust moved that the report of the Joint-Select Committee relative to informing the Governor that the Legislature has completed its labors and is ready to ascertain if he has any further communications to make to the Legislature be adopted.

Which motion prevailed.

Also MR. SPEAKER:

Your Joint-Select Committee appointed to consider the matter of adjournment sine die of the Eighty-eighth Legislative Session respectfully reports that the Senate and House of Representatives adjourn sine die at the hour of 12:44 p.m., March 25, 2013.

Respectfully submitted,
Brian Gosch
David Lust
Bernie Hunhoff
House Committee

Respectfully submitted,
Dan Lederman
Deb Peters
Billie Sutton
Senate Committee

Rep. Lust moved that the report of the Joint-Select Committee relative to fixing the time to adjourn sine die be adopted.

Which motion prevailed.

There being no objection, the House reverted to Order of Business No. 5.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the House and Senate have, pursuant to the recommendation of the Governor as to line item veto of HB 1137, sustained that line item veto and delivered the same to his Excellency, the Governor at 12:15 p.m., March 25, 2013.

Also MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the House and Senate have, pursuant to the recommendation of the Governor as to line item veto of HB 1185, sustained that line item veto and delivered the same to his Excellency, the Governor at 12:15 p.m., March 25, 2013.

Respectfully submitted,
Brian G. Gosch, Chair

1 The following prayer was offered by Chaplain, Pastor Karl Kroger:

2 Almighty God, You are faithful and just, full of grace and truth. We give You praise for
3 Your mighty deeds done throughout history, and for the acts You prepared this legislative body
4 for, and worked through them to accomplish. May the evidence of these leader's commitment
5 to the people of this state – endure beyond their terms here. May their concern for the vulnerable
6 and broken-hearted – be their legacy. May their mutual respect for one another – give rise to a
7 leading model of legislating and dialogue in the public square. May their compassion for
8 families dreaming of and working toward a better life for their children – inspire others to
9 improve their communities. God, may You bless these public servants: bless them with safe
10 travel, peace filled homes, and fruitful ministry. Bless them with challenging convictions from
11 Your Spirit, and bless them to love, serve, and give – as You have done for us. By the power
12 of Your victory over sin and death, and through the majesty of Your Holy Name – these things
13 I pray. Amen.

14 Rep. Steele moved that the House do now adjourn sine die, which motion prevailed and
15 at 12:44 p.m. the House adjourned.

16

Arlene Kvislen, Chief Clerk